

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

BARBARA B. KOWALEWSKA,

Plaintiff,

V.

JOHN M. MCHUGH, Secretary,
Department of the Army,

Defendant.

CASE NO. C13-5187 BHS

**ORDER DENYING MOTION TO
APPOINT COUNSEL**

JOHN M. MCHUGH, Secretary,
Department of the Army,

Defendant.

This matter comes before the Court on Plaintiff Barbara B. Kowalewska's ("Kowalewska") motion to appoint counsel (Dkt. 2).

On March 12, 2013, Kowalewska filed a complaint alleging breach of an Equal Employment Opportunity Commission (“EEOC”) settlement agreement. Dkt. 1. On March 13, 2013, Kowalewska filed a motion to appoint an attorney. Dkt. 2.

There is no right to have counsel appointed in cases brought under 42 U.S.C. § 2000e. Although a court, under 28 U.S.C. § 1915(e), can request counsel to represent a party proceeding *in forma pauperis*, the court may do so only in exceptional

1 circumstances. *Rand v. Rowland*, 113 F.3d 1520, 1525 (9th Cir. 1997). A finding of
2 exceptional circumstances requires an evaluation of both the likelihood of success on the
3 merits and the ability of the plaintiff to articulate his or her claims *pro se* in light of the
4 complexity of the legal issues involved. *Wilborn v. Escalderon*, 789 F.2d 1328, 1331
5 (9th Cir. 1986).

6 In this case, the Court finds that exceptional circumstances do not exist to appoint
7 counsel. First, Kowalewska is able to articulate her claims and arguments. Second, the
8 issues do not appear to be that complex at this time. Third, the likelihood of success is
9 undercut by the fact that the EEOC rejected her breach claim on direct review and on
10 appeal. Therefore, the Court **DENIES** Kowalewska's motion to appoint counsel.

11 Dated this 19th day of March, 2013.

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BENJAMIN H. SETTLE
United States District Judge